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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,423	01/03/2001	Neil L. McClure	391327	3122
30955	7590	04/04/2005	EXAMINER	
LATHROP & GAGE LC 4845 PEARL EAST CIRCLE SUITE 300 BOULDER, CO 80301			FRANKLIN, JAMARA ALZAIDA	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Ex

## Office Action Summary

Application No.

09/754,423

Applicant(s)

MCCLURE ET AL.

Examiner

Jamara A. Franklin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 is/are allowed.
- 6) ☒ Claim(s) 28-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Acknowledgment is made of the amendment received on 3/08/05. Claims 1-39 are currently pending. Claims 21-27 are withdrawn from consideration.

#### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 28-33 and 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moldovan, Jr., et al. (US 4,010,353) (hereinafter referred to as 'Moldovan') in view of Huhn (US 3,941,976) and Yamagishi et al. (US 6,178,338) (hereinafter referred to as 'Yamagishi').

Moldovan teaches a vote recording device for use as a network component in casting

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ballots in an election, comprising:

an electronically configurable display;

program logic for receiving electronic ballot information from the network (peripheral device 122) and for processing the electronic ballot information to configure the electronically configurable display to display the electronic ballot information as text (col. 8, lines 50-63);

a user input area (col. 9, lines 5-13);

means for transmitting cast ballot information to the network (col. 9, lines 33-37);

the device wherein said electronically configurable display has a flat viewing surface; and

the device wherein said electronic ballot information has a data structure formed as a hierarchy of pages, and navigation through the pages is controlled locally at the vote recording device (col. 9, lines 18-32).

Moldovan lacks the teaching of a user input area including a rotary input device.

Huhn teaches a vote recording device comprising:

a user input area including a rotary input device for voter interaction as

ballots are cast (col. 6, lines 18-21).

One of ordinary skill in the art would have readily recognized that a rotary input device would have been beneficial to the Moldovan invention as one of a variety of different ways to input data into the voting station. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Moldovan with the rotary input device of Huhn to serve as an alternative means to casting one's vote.

Moldovan/Huhn lack the teaching of a rotary input device to move a ballot focus on the electronically configurable display.

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Yamagishi teaches a device comprising:

a user input area including a rotary device for user interaction to move a focus on the electronically configurable display that identifies a choice (col. 3, line 66-col. 4, line 5);

the device wherein the rotary input device cooperates with the display to present a user with a focus comprising a single selected element;

the device wherein the focus changes format for visual presentation to the user when selected; and

the device wherein said focus is selected from the group consisting of darkened elements, elements having a changed font, and elements having a changed color.

One of ordinary skill in the art would have readily recognized that moving a ballot focus on the electronically configurable display would have been beneficial for the invention of Moldovan/Huhn to provide clear and discernable recognition of a user's selection on the display. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Moldovan/Huhn with the aforementioned teaching of Yamagishi to reduce or eliminate the casting of unintentional votes by a user.

4. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moldovan/Huhn as applied to claim 28 above, and further in view of Willard (US 5,821,508).

The teachings of Moldovan/Huhn have been discussed above.

Moldovan/Huhn lack the teaching of a disabled access unit.

Willard teaches a voting station selectively configured with a disable access unit;

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wherein said disable access unit includes audio system for replicating said electronic ballot information and adaptors configured for coupling with special controls for physically challenged persons (see abstract).

One of ordinary skill in the art would have readily recognized that the disable access unit would have been beneficial to the Moldovan/Huhn invention since it would afford equal-opportunity for anyone, regardless of physical impairment, to vote in an election. Therefore, it would have been obvious, at the time the invention was made, to modify the teachings of Moldovan/Huhn with the disables access unit as taught by Willard.

***Allowable Subject Matter***

5. Claims 1-20 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, particularly the Bayer reference fails to teach or fairly suggest a controller configured with an interactive menu system permitting a poll worker to preside over an election and although Moldovan does disclose program logic for receiving electronic ballot information from a network, both the Bayer and newly cited Moldovan references fails to teach, or fairly suggest, either alone or in combination thereof, a precinct electronic voting system for use in elections having program logic resident at the controller for selecting and disseminating portions of the electronic ballot information between the controller and the voting station on a voter-specific basis to facilitate cooperable display, the cooperable interaction being directed by the program logic to assist the voter during the election.

***Response to Arguments***

7. Applicant's arguments, filed 3/08/05, with respect to the Bayer reference have been fully considered and are persuasive. The 35 U.S.C. rejections of paper no. 804 of claims 1-20 and 28-39 have been withdrawn, however new 35 U.S.C. rejections have been applied to claims 28-39 using the Moldovan invention in place of the Bayer invention.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Davis, et al. (US 6,550,675) teach a direct vote recording system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamara A. Franklin whose telephone number is (571) 272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jamara A. Franklin  
Examiner  
Art Unit 2876

JAF  
March 24, 2005



DIANE I. LEE  
PRIMARY EXAMINER